

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PORTLAND DIVISION

VICKI L. NEISZ,

Plaintiff,

v.

MICHAEL J. ASTRUE, Commissioner of
Social Security,

Defendant.

Case No.: 3:11-cv-06036-JE

**ORDER ADOPTING FINDINGS AND
RECOMENDATIONS**

SIMON, District Judge.

Magistrate Judge John Jelderks issued Findings and Recommendations in the above-captioned case on July 18, 2012. Dkt 19. Judge Jelderks recommended that the Commissioner's decision be reversed and the case remanded for the immediate calculation and award of benefits under the Social Security Act. Neither party filed objections.

Under the Federal Magistrates Act ("Act"), I may "accept, reject or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate's Findings and Recommendations, I must "make a *de novo* determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

If no party objects, the Act does not prescribe a standard of review. In such cases, “[t]here is no indication that Congress . . . intended to require a district judge to review a magistrate’s report[.]” *Thomas v. Arn*, 474 U.S. 140, 152 (1985); *see also United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir.) (*en banc*), *cert. denied*, 540 U.S. 900 (2003) (the court must review *de novo* magistrate’s findings and recommendations if objection is made, “but not otherwise”).

Although review is not required in the absence of objections, the Act “does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard.” *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that “[w]hen no timely objection is filed,” the court review the magistrate’s findings and recommendations for “clear error on the face of the record.”

No party having made objections, I follow the recommendation of the Advisory Committee and review Magistrate Judge Jelderks’ Findings and Recommendations for clear error on the face of the record. I find no error. Therefore I ADOPT Judge Jelderks’ Findings and Recommendations (Dkt. 43).

IT IS SO ORDERED.

Dated this 31st day of July, 2012.

/s/Michael H. Simon
Michael H. Simon
United States District Judge